

Introduced by Senator Scott

(Principal coauthor: Assembly Member Steinberg)

(Coauthors: Senators Kuehl and Romero)

(Coauthors: Assembly Members Hancock, Jackson, and Koretz)

December 10, 2002

An act to add Sections 12015 and 12072.1 to the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 35, as introduced, Scott. Firearms: ballistic identification.

Under existing law, transactions concerning firearms are closely regulated, and individuals engaging in transactions concerning firearms must follow many legal requirements or face sanction. Existing law vests the Department of Justice with various powers and duties, such as managing the state's DNA database and data bank identification program, acting as a liaison to the Federal Bureau of Investigation regarding the state's participation in a national DNA database, and maintaining statewide automated fingerprint identification systems.

This bill would require the department to establish and maintain a qualified database containing specified information, including ballistic identifiers, for individual firearms, no later than January 1, 2005, unless a database containing the same information is established under the authority of a federal agency. This bill would require manufacturers, wholesalers, importers, and dealers who conduct certain firearms transactions in the state either to include ballistic identifier information in the box with a firearm, which information the dealer would be required to forward to the department, or submit ballistic identifier information directly to the department. This bill would require the department to adopt regulations to carry out its provisions and to ensure



that local law enforcement agencies have access to the qualified database. This bill would authorize information in the qualified database to be accessed only for law enforcement purposes or statistical research or evaluation of the ballistic identification system. This bill would authorize the department to require each dealer to charge each firearm purchaser or transferee a fee not to exceed one dollar for each firearm transaction. This bill would prohibit a dealer from delivering any firearm if he, she, or it has been notified by the department that the qualified database does not contain required ballistic identifiers for that firearm.

This bill would provide that a violation of its provisions is an infraction punishable by a fine of \$1,000 and, in specified circumstances, ineligibility to manufacture, import, or sell firearms in the state. This bill would provide that any person who knowingly submits false or misleading information to the qualified database or who tampers with the barrel, receiver, or other parts of a firearm with the intent to affect the firearm's ballistic identifier and for the purpose of evading criminal prosecution is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

By creating new crimes, this bill would impose a state mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 Ballistic Identification Act of 2003.

3 SEC. 2. Section 12015 is added to the Penal Code, to read:

4 12015. (a) Definitions:

5 (1) As used in this section, the term "ballistic identifier" means
6 a digitized or electronic image of a projectile or shell casing
7 discharged by a firearm, clearly showing the distinctive firing pin,
8 breech face, ejection, extraction, barrel, or other marks for that



1 particular firearm as manufactured, that can be used, through
2 comparative computer analysis, for investigative and
3 prosecutorial purposes by law enforcement agencies.

4 (2) As used in this section, the term “qualified database”
5 means a computerized database, established and maintained under
6 the authority of a federal or state law enforcement agency, that
7 contains information that includes the make, model, serial number,
8 caliber, and ballistic identifiers for individual firearms, and that is
9 made available to, and may be used by, law enforcement agencies
10 for investigative and prosecutorial purposes, and that is
11 compatible with the National Integrated Ballistic Information
12 Network operated by the Bureau of Alcohol, Tobacco and
13 Firearms of the United States Department of the Treasury.

14 (b) No later than January 1, 2005, the Department of Justice
15 shall establish and thereafter maintain a qualified database. If at
16 any time the department determines, and publishes that
17 determination in the California Register, that a qualified database
18 that contains all of the information required to be included by this
19 section has been established under the authority of a federal
20 agency, then the department shall no longer be required to establish
21 or maintain a qualified database.

22 (c) Any manufacturer who manufactures in the state, and any
23 manufacturer, wholesaler, importer, or dealer who ships or
24 transports into the state for sale in the state, any firearm shall
25 either:

26 (1) Include in the box with the firearm, in a manner to be
27 determined by the department, all of the following:

28 (A) A machine-printed document identifying the make, model,
29 serial number, and month and year of manufacture of the firearm.

30 (B) A shell casing of a projectile discharged from the firearm.

31 (C) The projectile discharged from the firearm in the same
32 discharge that produced the shell casing. If the firearm is a
33 shotgun, no projectile shall be required.

34 (2) If authorized by the department, submit directly to the
35 department or its designee all of the following:

36 (A) Two ballistic identifiers for the firearm, one of which
37 contains an image of a shell casing discharged using the firearm
38 and the other of which contains an image of a projectile discharged
39 using the firearm. If the firearm is a shotgun, no ballistic identifier

1 containing an image of a projectile shall be required to be
2 submitted.

3 (B) The shell casing and projectile from which the ballistic
4 identifiers were made. If the firearm is a shotgun, no projectile
5 shall be required to be submitted.

6 (d) Except for transfers conducted pursuant to Section 12082,
7 for every firearm transfer occurring on or after January 1, 2005,
8 or on or after an earlier date on which the department determines,
9 and publishes that determination in the California Register, that a
10 qualified database is available, on the date of submission to the
11 department of information pursuant to Section 12077, and for each
12 firearm for which that information is submitted, the dealer shall
13 forward to the department or its designee the machine-printed
14 document and sealed containers that accompany the firearm, if
15 any, in a manner to be determined by the department.

16 (e) Within 10 days of receipt of the information submitted
17 pursuant to Section 12077, the department shall confirm that the
18 shell casing, bullet, and required information have been submitted
19 to the department or its designee for entry into the qualified
20 database. If the department cannot confirm that the information
21 has been submitted, the department shall notify the dealer of that
22 fact prior to the date on which the firearm may otherwise be
23 lawfully transferred. If the department establishes a qualified
24 database pursuant to subdivision (b) of this section, the department
25 shall ensure that ballistic identifiers submitted for entry into the
26 database have been entered into the system no later than 30 days
27 after the date of submission of the ballistic identifiers.

28 (f) The department shall adopt regulations to carry out the
29 provisions of this section and to ensure that local law enforcement
30 agencies have access to the qualified database.

31 (g) If the department establishes a qualified database pursuant
32 to subdivision (b), the information in the qualified database shall
33 be accessible only for the following purposes:

34 (1) Law enforcement purposes.

35 (2) Purposes of statistical research or evaluation of the
36 ballistics identification system.

37 (h) Except for transfers conducted pursuant to Section 12082,
38 the department may require each dealer to charge each firearm
39 purchaser or transferee a fee not to exceed one dollar (\$1) for each



1 firearm transaction. This fee shall be for the purpose of supporting
2 departmental program costs related to this section.

3 (i) (1) Any violation of this section is an infraction punishable
4 by a fine of one thousand dollars (\$1,000). Upon a second violation
5 of this section, the violator shall, in addition to being punishable
6 by a fine of one thousand dollars (\$1,000), be ineligible to
7 manufacture, import, or sell firearms in the state for 30 days. Upon
8 a third or subsequent violation of this section, the violator may be
9 designated by the department as permanently ineligible to
10 manufacture, import, or sell firearms in this state.

11 (2) Any person who knowingly submits false or misleading
12 information to the qualified database is punishable by
13 imprisonment in a county jail not exceeding one year or in the state
14 prison.

15 (3) Any person who alters, defaces, or otherwise tampers with
16 the barrel, receiver, firing pin, or other part of a firearm with the
17 intent to affect the firearm's ballistic identifier and for the purpose
18 of evading criminal prosecution is punishable by imprisonment in
19 a county jail not exceeding one year or in the state prison.

20 SEC. 3. Section 12072.1 is added to the Penal Code, to read:

21 12072.1. (a) No firearms dealer may deliver any firearm if
22 the dealer has been notified by the department, pursuant to Section
23 12015, that the qualified database does not contain required
24 ballistic identifiers for that firearm.

25 (b) Any violation of this section is an infraction punishable by
26 a fine of one thousand dollars (\$1,000). Upon a second violation
27 of this section, the violator shall, in addition to being punishable
28 by a fine of one thousand dollars (\$1,000), be ineligible to
29 manufacture, import, or sell firearms in the state for 30 days. Upon
30 a third or subsequent violation of this section, the violator may be
31 designated by the department as permanently ineligible to
32 manufacture, import, or sell firearms in this state.

33 SEC. 4. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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